

SUBDIVISIONS/ON-SITE
SUBSURFACE WASTEWATER TREATMENT

17.36.340

(b) all water is hauled and disinfected in accordance with ARM Title 17, chapter 38, subchapter 5, or a reviewing authority-approved plan; and

(c) the cistern is constructed and installed in accordance with a plan approved by the reviewing authority and in accordance with department Circular DEQ-17. (History: 76-4-104, MCA; IMP, 76-4-104, MCA; NEW, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2003 MAR p. 221, Eff. 2/14/03.)

Rules 17.36.337 through 17.36.339 reserved

17.36.340 LOT SIZES: EXEMPTIONS (1) This rule sets out, for purposes of the review of proposed subdivisions, the requirements for minimum lot or parcel size and the criteria for varying the minimum size. Proposed subdivisions involving mobile homes, trailer courts, campgrounds, multiple family dwellings, and commercial or industrial development are also subject to this rule.

(a) If an applicant proposes to use subsurface wastewater treatment systems, as described in department Circular DEQ-4, the minimum lot size must be one acre for each living unit and one acre for up to 700 gallons per day of design wastewater flow for commercial and other non-residential uses. The department may allow smaller lot sizes pursuant to waiver as provided in (1)(b) and ARM 17.36.601. The reviewing authority may, without a waiver, allow smaller lot sizes in accordance with the criteria set out in (1)(c) and (d). The reviewing authority may require larger lot sizes as provided in (1)(e).

(b) The department may allow, pursuant to a waiver under ARM 17.36.601, lot sizes smaller than one acre only for lots created before July 1, 1973 and for alteration of lots created before April 15, 2003 as provided in (1)(b)(i), and only after approval by the local health department. To qualify for a waiver, the applicant shall provide adequate evidence as set out in (1)(b)(ii) and (iii) to demonstrate that water quality is protected.

(i) For purposes of this rule, "alteration" of lots created before April 15, 2003, means combining lots by eliminating common boundaries, redefining lots by relocating common boundaries, or a combination of both. An alteration of lots under this rule must also meet the following requirements:

(A) it must be impracticable to create lots that comply with the minimum lot size required in (1)(a) and the alteration

must improve, or at least not reduce, the capability for wastewater treatment on the affected lots;

(B) the alteration may not result in an increase in the number of affected lots;

(C) the alteration may not decrease the total acreage of all affected lots; and

(D) the number of existing wastewater systems on the affected lots may not be increased, although existing wastewater systems may be altered or replaced.

(ii) The applicant shall provide site-specific information regarding soil and aquifer characteristics, mixing zones, and impacts on surrounding properties taking into account existing and potential uses. The applicant shall also provide evidence showing that:

(A) level two treatment, as defined in ARM 17.30.702(9), is provided if a limiting layer is within 15 feet of the natural ground surface. The reviewing authority may require the applicant to construct soil test pits or ground water monitoring wells to demonstrate the depth to a limiting layer;

(B) soil properties are suitable for treatment and disposal of wastewater; and

(C) the lot has adequate space for the wastewater treatment system and replacement area, water supply, and all permanent structures including, but not limited to, driveways, houses, garages, ditches, service lines, easements, and utilities.

(iii) In order to determine site suitability, the reviewing authority may require the applicant to provide additional site-specific information, including results of ground water or soils analyses.

(c) The reviewing authority may allow lot sizes smaller than one acre, but not less than 20,000 ft² if all of the conditions in any one of (1)(c)(i) or (ii) are met:

(i) the water supply or wastewater treatment for the lots that are proposed to be smaller than one acre is provided by either a multiple user system (designed by a professional engineer) or by a public system; or

(ii) the water supply is provided by a cistern because it is not feasible to develop a water supply for the proposed subdivision that meets the water quality, quantity and dependability requirements in ARM 17.36.331 and 17.36.332, and the wastewater treatment systems for the proposed subdivision meet all of the requirements of this chapter.

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(d) The reviewing authority may allow lot sizes smaller than one acre, including lots with less than 20,000 ft², if all of the conditions in any one of (1)(d)(i), (ii), or (iii) are met:

(i) the water supply and wastewater treatment are provided by public or municipal systems, and the well or other source for the water supply is not located on a lot that is proposed for lot size reduction;

(ii) the affected ground water beneath and surrounding the subdivision has a specific conductance equal to or greater than 7,000 microSiemens/cm at 25°C, and all existing and anticipated uses of the ground water are protected; or

(iii) the proposed subdivision is within a designated wastewater facility service area, which has been planned for by a local wastewater utility and approved by the department pursuant to Title 75, chapter 6, MCA, and the acreage of lots on which drainfields are located is at least one acre for up to 700 gallons per day of design wastewater flow; and

(A) the local wastewater utility certifies in writing that the collection systems serving the lots meet the utility's design standards and may be connected to the system when public wastewater mains are available. As-built plans for all collection systems must be submitted to the reviewing authority and to the local wastewater utility; or

(B) a dry-laid wastewater main is provided connecting the lots to a planned municipal wastewater main, with appropriate easements, and the local wastewater utility issues written approval of the design and installation of the main, and certifies that the dry-laid wastewater main, service lines, and related appurtenances may be connected to the municipal system when public wastewater mains are available. As-built plans for all dry-laid systems must be submitted to the reviewing authority and to the local wastewater utility.

(e) The reviewing authority may require lot sizes larger than those allowable under (1)(a) or may limit the wastewater flow for a lot if:

(i) wastewater flow exceeds 700 gallons per day per acre;

(ii) wastewater flow exceeds residential strength;

(iii) lots are used for a combination of residential and non-residential uses; or

(iv) if otherwise necessary to protect water quality.

(History: 76-4-104, MCA; IMP, 76-4-104, MCA; NEW, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2003 MAR p. 221, Eff. 2/14/03; AMD, 2003 MAR p. 1804, Eff. 8/15/03.)

ADMINISTRATIVE RULES OF MONTANA
17.36.345

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ENVIRONMENTAL QUALITY

Rules 17.36.341 through 17.36.344 reserved

17.36.345 ADOPTION BY REFERENCE (1) For purposes of this chapter, the department hereby adopts and incorporates by reference the following documents. All references to these documents in this chapter refer to the edition set out below:

(a) Department Circular DEQ-1, "Standards for Water Works", 1999 edition;

- (b) Department Circular DEQ-2, "Design Standards for Wastewater Facilities", 1999 edition;
 - (c) Department Circular DEQ-3, "Standards for Small Water Systems", 1999 edition;
 - (d) Department Circular DEQ-4, "Standards for Subsurface Wastewater Treatment Systems", 2002 edition;
 - (e) Department Circular WQB-7, "Montana Numeric Water Quality Standards", 2001 edition;
 - (f) Department Circular DEQ-8, "Montana Standards for Subdivision Storm Drainage", 2002 edition;
 - (g) Department Circular DEQ-11, "Montana Standards for Development of Springs for Individual and Shared Non-public Systems", 2002 edition;
 - (h) Department Circular DEQ-17, "Montana Standards for Cisterns (Water Storage Tanks) for Individual Non-public Systems", 2002 edition;
 - (i) Department Circular PWS-5, "Ground Water Under the Direct Influence of Surface Water", 1999 edition;
 - (j) Department Circular PWS-6, "Source Water Protection Delineation", 1999 edition; and
 - (k) The U.S. Department of Agriculture's National Soil Survey Handbook (USDA, NRCS, September 1999), and the Soil Survey Manual (USDA, October 1993), which contain a recognized set of methods for identifying the nature and characteristics of soils.
- (2) Copies of the documents incorporated by reference in this rule may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901. (History: 76-4-104, MCA; IMP, 76-4-104, MCA; NEW, 2000 MAR p. 3371, Eff. 12/8/00; AMD, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2003 MAR p. 221, Eff. 2/14/03.)

Sub-Chapters 4 and 5 reserved